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TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Application Number	09/954,571
Filing Date	09/11/2001
First Named Inventor	Kenneth R. Chien
Group Art Unit	1632
Examiner Name	Peter Paras, Jr.
Total Number of Pages in This Submission: 6	Attorney Docket Number: 6627-PA0123

ENCLOSURES *(check all that apply)*

- [ ] Fee Transmittal Form
  - [ ] Fee Attached
- [x] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts Under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition Routing Slip (PTO/SB/69) and Accompanying Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Small Entity Statement
- [ ] Request for Refund
- [ ] After Allowance Communication to Group
- [ ] Appeal Communications to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Additional Enclosure(s) *(please identify below):*

copy of office communication from PTO (2 pp); return postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

ATTORNEY NAME	COLLEEN J. McKIERNAN Reg. No. 48,570
FIRM	BROWN, MARTIN, HALLER & McCLAIN, LLP
SIGNATURE	
DATE	1/10/03

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: 1/10/03

Typed or printed name	Karen L. Johnson		
Signature	Karen L. Johnson	Date	1/10/03

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of	)	
	)	FOR: HIGH EFFICIENCY CARDIAC
Kenneth R. Chien	)	GENE TRANSFER
	)	
Serial No.: 09/954,571	)	Group
	)	Art Unit: 1632
Filed: September 11, 2001	)	

RESPONSE TO NOTIFICATION TO COMPLY WITH SEQUENCE LISTING REQUIREMENTS

Commissioner for Patents
P. O. Box 2327
Arlington VA 22202

Attention: Peter Paras, Jr.
Examiner

Dear Sir:

This is in response to the Notice to Comply with Sequence Listing Requirements dated December 12, 2002 stating that the Applicant must provide a

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January 10, 2003
(Mailing Date)

Karen L. Johnson
(Typed Name)

Karen L. Johnson
(Signature)

January 10, 2003
(Date of Signature)

H:\Colleen\6627-CHIEN\PA0123.SeqList.RESYCHIE03.A02.frm

"Sequence Listing" and an amendment to direct its entry into the case.

The Applicants submit that no such listing is required in this case for a number of reasons. First, all of the sequences discussed in the application are first mentioned in the background section of the specification with references to where the sequences can be found. None of the sequences discussed in the instant application are new.

Second, the invention is directed to a method, not a composition of matter. The method teaches the use of a viral vector, not a specific nucleic acid sequence or even a specific nucleic acid. The invention is not limited by the selection of the viral vector. An exhaustive sequence listing could not be made. Dependent claims teach the use of adenovirus and adeno-associated virus vectors. However, adenovirus and adeno-associated virus are not a single virus, but instead families of viruses with many members, most likely with additional members to be identified. Therefore no exhaustive listing could be made. Moreover, those skilled in the art are readliy able to identify the sequences of interest for use in the instant invention using NCBI-BLAST, SWISS-PROT or any of a number of databases containing nucleotide and protein sequence information or by referring to references listed in the text.

Third, just as the method is not limited by the choice of viral vector, it is also not limited by the coding sequence to be inserted. A number of examples of potentially useful coding sequences are presented in the specification, but they are not limitations of the method of the invention which is defined by the steps in claim 1. Again, the coding sequences for the examples given can be readily found in a sequence database or by referring to the references listed in the text.

Fourth, all sequences referred to in the application are referred to by name, not by the listing of a series of nucleotides or amino acids. Therefore, no listing is required.

The Applicants submit that in view of the above arguments that the application

is in proper form for examination and does not require a sequence listing.

FEES

It is believed that no fees are due with this response. However, if a fee is due, the Commissioner is entitled to charge deposit accoun 02-4070 referencing case number 6627-PA123.

CONCLUSIONS

In view of the above comments, the Applicants submit that the application is in proper form for examination. If the Examiner believes that examination of the case can be expedited by a telephone call, he is invited to call the agent for applicant listed below, collect, in order to resolve any issues that may remain.

Respectfully submitted,

Dated: January 10, 2003

By: _____

Colleen J. McKiernan, PhD
Agent for Applicant
Registration No.48,570

BROWN MARTIN HALLER & McCLAIN LLP
1660 Union Street
San Diego, California 92101-2926

Telephone: (619) 238-0999
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Docket No.: 6627-PA0123

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER	

ART UNIT	PAPER
	5

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Sequence Compliance

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37CFR 1.821(a)(1) and (a)(2). See Figure 1. However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

APPLICANT IS GIVEN A[redacted]E PERIOD WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 CFR 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Applicant is requested to return a copy of the attached Notice to Comply with the response.

To avoid damage to a CRF by irradiation, a reply to a notice to comply with the sequence rules should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office.

Please direct all replies to the United States Patent and Trademark Office via one (1) of the following:

1. Electronically submitted through EFS-Bio (**<http://www.uspto.gov/ebc/efs/downloads/documents.htm>**, EFS Submission User Manual - ePAVE)
2. Mailed to: **U.S. Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA 22202**
3. Mailed by Federal Express, United Parcel Service or other delivery service to: **U. S. Patent and Trademark Office, 2011 South Clark Place, Customer Window, Box Sequence, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202**
4. Hand Carried directly to the Customer Window at: **2011 South Clark Place, Crystal Plaza Two, Lobby, Room 1B03, Box Sequence, Arlington, Virginia 22202**

Any inquiry concerning this communication or earlier communications from the examiner(s) should be directed to Peter Paras, Jr., whose telephone number is 703-308-8340. The examiner can normally be reached Monday-Friday from 8:30 to 4:30 (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds, can be reached at 703-305-4051. Papers related to this application may be submitted by facsimile transmission. Papers should be faxed via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center numbers are (703) 308-4242

Inquiries of a general nature or relating to the status of the application should be directed to Dianiece Jacobs whose telephone number is (703) 305-3388.

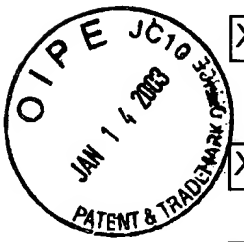
Peter Paras, Jr.
Art Unit 1632

Peter Paras
Art Unit 1632

Application No.:09/954571

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):



- [X] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- [X] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [X] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [ ] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other: _____

Applicant Must Provide:

- [X] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [X] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [X] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support (SIRA)
Technical Assistance.....703-287-0200
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